

31294

SERVICE DATE - SEPTEMBER 21, 2000

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-573X]

Trinidad Railway, Inc.--Abandonment Exemption--in Las Animas County, CO

[STB Docket No. AB-6 (Sub-No. 388X)]

The Burlington Northern Company and Santa Fe Railway Company--Discontinuance of Trackage Rights Exemption--in Las Animas County, CO

[STB Docket No. AB-33 (Sub-No. 160X)]

Union Pacific Railroad Company--Discontinuance of Trackage Rights Exemption--in Las Animas County, CO

Trinidad Railway, Inc. (Trinidad), The Burlington Northern and Santa Fe Railway Company (BNSF), and the Union Pacific Railroad Company (UP) (collectively, applicants) have filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments and Discontinuances of Trackage Rights for Trinidad to abandon and BNSF and UP to discontinue trackage rights over an approximately 30.0-mile line of railroad from milepost 2.0 at Jensen (west of Trinidad), to the end of the line at the

former New Elk Mine at milepost 30.0 (east of Stonewall), in Las Animas County, CO.¹

The line traverses United States Postal Service Zip Codes 81082, 81070, and 81091.

Applicants have certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there has been no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co.--Abandonment--Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be

¹ Trinidad states that it is retaining the first two miles of the line operated by BNSF and UP. Stating that the line covers a distance of up to 30.0 miles, the notices indicates that there is a discrepancy over the actual length of the rail line.

Trinidad acquired the involved line from the Colorado & Wyoming Railway Company as part of the transaction authorized in Trinidad Railway, Inc.--Acquisition and Operation Exemption--The Colorado & Wyoming Railway Company, Finance Docket No. 32183 (ICC served Nov. 23, 1992).

BN's trackage rights were the subject of an exemption in Burlington Northern Railroad Company--Trackage Rights Exemption--Trinidad Railway, Inc., Finance Docket No. 32232 (ICC served Jan. 29, 1993).

filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 21, 2000, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,² formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),³ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 2, 2000. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 11, 2000, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicants' representatives: John D. Heffner, Esq., Attorney for Trinidad Railway, Inc., Rea, Cross & Auchincloss, Suite 570, 1707 L Street, N.W., Washington, DC 20036; Michael E. Roper, Esq., Senior General Attorney, The Burlington Northern and Santa Fe Railway Company, 2500 Lou Menk Drive, Fort Worth, TX 76131; and James P. Gatlin, Esq., General Attorney, Union Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179.

² The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

³ Each offer of financial assistance must be accompanied by the filing fee, which currently is set at \$1000. See 49 CFR 1002.2(f)(25).

If the verified notice contains false or misleading information, the exemption is void ab initio.

Applicants have filed an environmental report which addresses the effects of the abandonment and discontinuance, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by September 26, 2000. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565-1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), Trinidad shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by Trinidad's filing of a notice of consummation by September 21, 2001, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at
“WWW.STB.DOT.GOV.”

Decided: September 14, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary